

## REMARKS

### **1. Claims Amendments.**

Claim 1 has been amended to clarify the elements of the device and their structural relationship to each other, and to include that the spring slats lie in a common plane (Specification page 10, lines 23-36), connecting elements are located between adjacent parallel spring struts (Specification page 3, lines 13 and 15), and the load bearing means and spring elements (Claim 7 and Specification page 12, lines 32-33). Additionally, Claim 1 has been clarified to include that the spring elements impart independent spring properties and that the load-bearing means serve to hold the spring elements of the connecting elements between the adjacent spring slats (Specification page 4, lines 1-8) and that the spring elements protrude with respect to the plane of the spring slats (Specification page 12, lines 32-33). No new matter has been added.

Claims 2 and 3 have been amended to change the transition phrase "characterized in that" to –wherein—as preferred by the USPTO. No new matter has been added.

Claim 4 has been amended to change the transition phrase "characterized in that" to –wherein—as preferred by the USPTO and to delete the term "particular" so as to make the claim more definite. No new matter has been added.

Claim 5 has been amended to change the transition phrase "characterized in that" to –wherein—as preferred by the USPTO. No new matter has been added.

Claim 6 has been amended to change the transition phrase "characterized in that" to –wherein—as preferred by the USPTO and to delete the term "preferably" so as to make the claim more definite. Additionally, the words have been rearranged so as to read better and for grammatical clarity. No new matter has been added.

Claim 7 has been amended to change the transition phrase "characterized in that" to –wherein—as preferred by the USPTO and to limit the connecting elements to suspension devices. No new matter has been added.

Claim 8 has been amended to change the transition phrase "characterized in that" to –wherein—as preferred by the USPTO and to change the term "particular" to –

respective--. Additionally, Claim 8 has been amended to depend from Claim 7 to provide antecedent basis for "the suspension devices". No new matter has been added.

Claim 9 has been amended to change the transition phrase "characterized in that" to --wherein--as preferred by the USPTO and to change the term "particular" to --respective--. Additionally, Claim 9 has been amended to depend from Claim 7 to provide antecedent basis for "the suspension devices". Additionally, the words have been rearranged so as to read better and for grammatical clarity. No new matter has been added.

Claims 10-18 have been withdrawn and have not been amended in this response.

## **2. 35 USC 112 Rejections.**

Applicant has amended Claims 1, 2, and 9 to address the examiner's concerns under 35 USC 112. No new matter has been added.

## **3. 35 USC 102 (b) Rejections of Claims 1-4 and 7-9.**

Anticipation under 35 USC 102(b) requires "the disclosure in a prior art reference each and every element of the claimed invention." *Orthokinetics, Inc. v. Safety Travel Chairs, Inc.*, 1 USPQ2d 1081 (Fed. Cir. 1986); *see also verdegall Bros. V. Union Oil Co. of California*, 814 F2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) ("a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference"). The absence of one element from the cited prior reference negates anticipation. *See Atlas Powder Co. v. E.I. du Pont de Nemours & Co.*, 224 USPQ2d 409 (Fed Cir. 1984). Anticipation was intended to apply in the limited situations in which one reference incorporates all the element of a claim in a subsequent invention because the non-obvious standard was intended to cover broader obvious leaps from a reference to a claim or from combined references to a claim. *See Titanium Metals Corp. v. Brenner*, 227 USPQ 773 (Fed. Cir. 1985).

The present invention relates to a supportive spring base for a mattress. The spring base comprises spring slats lying in a common plane and mounted at their ends

on the longitudinal struts of a frame. The spring struts and the frame form a stable supportive spring base. The connecting elements are arranged between adjacent spring slats and each connecting element makes a connection between two adjacent, parallel spring slats.

The connecting elements have a unique design. The connecting elements comprise at least one load-bearing means and at least one spring element. Each spring element imparts the connecting element with its own spring characteristics. The purpose of the load-bearing means is to attach and hold the spring element between two adjacent spring slats in order that the spring elements also can exert a spring force independently of the spring struts. By having the spring elements protrude with respect to the plane of the spring struts, the spring elements impart independent spring characteristics to the connecting elements. In this manner, both the spring struts and the spring elements of the connecting elements act as springs.

Sigl '658 does not anticipate Claims 1-4, 6, and 9 of the present patent application. Sigl '658 relates to a slat grating insert. A support frame (5) is provided that has two lateral longitudinal carriers (16) and a central longitudinal carrier (17). A slat grating (1) is laid upon the support frame (5). The slat grating comprises a large number of adjacent spring slats (2) connected by means of straps (8). For example, the straps (8) are made of cotton. At the opposite ends of the spring slats (2) are elastic support bodies (4, 4') with which the slat grating (1) is supported on the longitudinal carriers (16, 17). The spring slats (2) each have an upper strip (6) and a lower strip (7), between which elastic form bodies (3) are disposed.

As shown in Sigl '658 FIG. 2, the opposite ends of the strips (6, 7) have elastic support bodies (4, 4'). As shown in FIG. 5, the elastic support bodies (4, 4') have clearances (10) that accommodate the ends of the strips (6, 7) of the slat grating (1). In this manner, the elastic support bodies (4, 4') connect the strips (6, 7) of a spring slat (2) that lie one above the other. However, the elastic support bodies (4, 4') do not connect adjacent spring slats lying next to each other, which is the purpose of the connecting elements of the present invention.

Similarly, the cotton straps (8) also do not connect adjacent spring slats. The straps (8) connect elastic support bodies (4, 4') lying next to each other. However, this

connection is limp because the straps (8) are made of cotton and are not elastic. The straps (8) are not capable of bridging adjacent spring struts, a task for which the connecting elements of the present invention are provided. The elastic support bodies (4, 4') thus do not represent any kind of connecting element.

Further, As shown on FIG. 4, Sigl '658 provides elastic support bodies (3) that are only meant to support the upper strip (6) on the lower strip (7). Although Sigl '658 uses the terminology "elastic form bodies", elastic support bodies (3, 4) are not necessarily spring elements. Specifically, Sigl '658 fails to disclose that the connecting elements have load-bearing means and spring elements, with the load-bearing means holding the spring elements between two adjacent struts. Sigl '658 also fails to state that the spring elements impart independent spring characteristics to the connecting elements because the bodies (3, 4) only connect the strips (6, 7) lying above one another, or support the upper strip (6) on the lower strip (7). Such a support is not possible with the present invention because the struts of the present invention lie in one plane.

Therefore, Sigl '658 does not disclose all of the elements of Claim 1 of the present invention, and therefore cannot anticipate Claim 1. As Claims 2-4, 6, and 9 depend from or ultimately from Claim 1, these claims also are not anticipated by Sigl '658.

Loberg '863 does not anticipate Claims 1, 3-4, and 7-8 of the present patent application. Loberg '863 relates to a support structure. In Loberg '863, slats (41) are arranged in a framework (21), with opposite ends of the slats (41) being mounted on the framework (21) via coupler assemblies (50). Groups of three slats (41) are arranged in a triangular orientation in that two parallel upper slats (41) are always associated with a middle lower slat (41), and thus the slats are not located in a plane. Each group of three slats (41) has an adjustment element (70), which can be displaced along the slats (41) to alter the spring stiffness of the slats (41). The two upper slats (41) are supported on the lower slat (41) by the respective adjustment element (70).

The adjustment elements (70) do not represent any type of connecting element because the upper slats (41) do not connect with, but only rest upon, a lower slat (41). If the lower slat (41) were not present, the adjustment element (70) would fall out of the

device upon any movement of the two upper slats (41). Further, the adjustment elements (70) do not represent any kind of connecting element at all, much less any kind of connecting element that has load-bearing means between adjacent spring struts and spring elements held by the load-bearing means that impart independent spring characteristics to the connecting elements, and where the spring elements protrude over the plane of the spring struts. In other words, the adjustment elements (70) not only are used for different purposes, they also are configured in a completely different manner, than the connecting elements of the present invention.

Therefore, Loberg '863 does not disclose all of the elements of Claim 1 of the present invention, and therefore cannot anticipate Claim 1. As Claims 3-4, and 7-8 depend from or ultimately from Claim 1, these claims also are not anticipated by Loberg '863.

#### **4. 35 USC 102 (b) \ 35 USC 103(a) Rejection of Claim 5.**

Initially, as Claim 5 depends from Claim 1, which Applicant submits now is allowable, the rejection of Claim 5 as anticipated by or obvious in view of Loberg '863 is moot. Also, Loberg '863 does not anticipate Claim 5 for the same reasoning as discussed above.

Loberg '863 does not anticipate and does not obviate Claim 5 of the present patent application. For a claim to be determined obvious (or nonobvious) under 35 USC 103, the claimed material must have been obvious to person of ordinary skill in the art from the prior art. An obviousness determination requires examining (1) the scope of the prior art, (2) the level of skill in the art, and (3) the differences between the prior art and Applicant's invention. *Litton Systems, Inc. v. Honeywell, Inc.*, 117 SCt 1270 (1970). A mere suggestion to further experiment with disclosed principles would not render obvious an invention based on those principles. *Uniroyal, Inc. v. Rudkin-Wiley Corp.*, 19 USPQ2d 1432 (Fed. Cir. 1991). In fact, an applicant may use a reference as his basis for further experimentation and to create his invention. *Id.* As discussed above, Loberg '863 has no disclosure of a connecting element / spring slat structure that would anticipate or obviate the present invention as claimed in Claim 5.

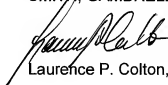
Even if each element in a claimed invention is old or unpatentable, this would not determine the nonobviousness of the claimed invention as a whole. See *Custom Accessories, Inc., v. Jeffrey-Allan Industries*, 1 USPQ2d 1196 1986 (Fed. Cir. 1986). The prior art must not be given an overly broad reading, but should be read in the context of the patent specifications and **as intended by reference authors**. *Durling v. Spectrum Furniture Co.*, 40 USPQ2d 1788 (Fed Cir 1996) (Federal Circuit held that district court erred by giving a "too broad an interpretation" of claims in a sofa patent to invalidate another on the nonobviousness standard). Loberg '863 was written for and teaches a specific adjustment element (70) and does not teach of the use of a specific connecting element / spring slat structure. Thus, Loberg '863 does not fairly disclose or teach the structure or elements of the present invention as claimed, and therefore cannot anticipate or obviate Claim 5.

### **CONCLUSION**

Applicant submits that the patent application is in condition for allowance and respectfully requests such action

If the examiner has any questions that can be answered by telephone, please contact the attorney of record at his new contact information.

Respectfully submitted,  
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